

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION – IN ADMIRALTY**

CIVIL ACTION NO. 7:24-CV-01088-D-RJ

In the Matter of:

GORDON DALE MANN, Owner of the
M/Y HOOKED ON A FEELING, a 1988
63' +/- Gulfstar, HIN # GFS63004K788,
Official # 937310, her engines, tackle,
apparel, appurtenances, fittings, etc.

For Exoneration from
or Limitation of Liability

**MOTION FOR ENTRY OF
DEFAULTS AGAINST NON-
APPEARING PARTIES AND NON-
ASSERTED CLAIMS**

NOW COMES Limitation Plaintiff, Gordon Dale Mann (“Limitation Plaintiff”), as the owner of M/Y HOOKED ON A FEELING, a 1988 63' +/- Gulfstar, HIN # GFS63004K788, Official # 937310, her engines, tackle, apparel, appurtenances, fittings, etc., (“Vessel”), and hereby requests entry of defaults by the Clerk under Rule 55(a) and Supplemental Admiralty Rules F(4) and F(5) of the Federal Rules of Civil Procedure against all non-appearing parties having an interest in this matter and as to all non-asserted claims that may have been made against Limitation Plaintiff in this matter, except as to those of the David E. Best and Kelli B. Best, and Traci Rivenbark. In support of this request, Limitation Plaintiff states as follows:

1. On November 22, 2024, Limitation Plaintiff filed a Verified Complaint for Exoneration from and/or Limitation of Liability [DE 1], pursuant to 46 U.S.C. §§ 30501 et seq. and Supplemental Admiralty Rule (F), for any injuries, damages or

losses of whatever description arising out of the operation of the Vessel, during a voyage from September 3, 2022 to September 5, 2022 (the “Voyage”).

2. On January 28, 2025, the Court issued an Order Directing Issuance of Notice, Restraining Prosecution of Claims and requiring public notice be given by publication thereof in *The Star News*, a newspaper within this District, for four successive weeks [DE 7]. A true and correct copy of the Affidavit of Publication is attached as **Exhibit 1**.

3. On January 28, 2025, the Clerk of this Court duly issued a Notice to Claimants of Complaint for Exoneration from or Limitation of Liability [DE 8]. The Notice required all potential claimants to file their claims with the Clerk of this Court, in the United States District Court for the Eastern District of North Carolina, Southern Division, and serve on Limitation Plaintiff’s attorney, Jason R. Harris, a copy therefore on or before March 28, 2025 or be defaulted. *Id.*

4. Supplemental Admiralty Rule F(4) required Limitation Plaintiff to mail, no later than the day of the second publication (which per Exhibit 1 was on February 26, 2025), a copy of said Notice to every person known to have made a claim against the Vessel or Limitation Plaintiff arising out of the Voyage on which the claims sought to be limited arose.

5. Limitation Plaintiff was notified of an alleged bodily injury claim and learned of others allegedly suffering property damages as a result of an alleged wake incident during the Voyage as further described in and which is the subject of the Verified Complaint in this action; they are as follows:

- Traci Rivenbark (personal injuries in an unknown amount);
- Kelli Best and David Earl Best (boat and dock damage estimate: \$25,208.89),
- Kenneth Wyatt Holley (boat damage estimate: less than \$1000),
- Jerome R. Templeton (boat damage estimate: \$3900),
- Donald J. Stewart (boat damage estimate: \$500.00)
- Marsh Creek at Scott's Hill Marina aka Marsh Creek Marina (unknown).

6. On February 18, 2025, Limitation Plaintiff sent Notice by USPS mail and via FedEx to all known potential claimants per Supplemental Rule F(4), and that may have a claim, and to those known to Limitation Plaintiff to have reported alleged damages, whether or not a claim was anticipated against the Vessel or Limitation Plaintiff, arising out of the Voyage on which the claims sought to be limited arose. Accordingly, actual notice was served as follows:

Recipients and Address	Date of Mailing via USPS	Date of Shipping via FedEx	Date of Delivery via FedEx	Proof of Delivery Attached as Exhibit	Date of Personal Service	Affidavit of Service Attached as Exhibit
Traci Rivenbark ¹ Lawrence D. Rivenbark 530 Hillwood Ct. Greensboro, NC 27410	2/18/2025	2/18/2025	2/21/2025	Exhibit 2	N/A	N/A
David E. Best Kelli B. Best 220 Simmons Dr. Wilmington, NC 28411	2/18/2025	2/18/2025	2/19/2025	Exhibit 3	2/21/2025	Exhibit 4

¹ A copy of the Notice was also mailed and emailed to Traci Rivenbark's attorney, Andrew Hanley, Esq. at Crossley, McIntosh, Collier, Hanley & Edes, PLLC

Donald J. Stewart 2216 Scotts Hill Loop Road Wilmington, NC 28411	2/18/2025	2/18/2025	2/19/2025	Exhibit 5	2/21/2025	Exhibit 6
Donald J. Stewart 117 Topsail Lake Rd, ² Hampstead, NC 28443	3/3/2025	3/3/2025	3/4/2025	Exhibit 7	N/A	N/A
Kenneth Holley, Sr. 307 Rochelle Drive Knightsdale, NC 27545	2/18/2025	2/18/2025	2/22/2025	Exhibit 8	2/22/2025	Exhibit 9
Jerome Templeton 5316 Andover Road Wilmington, NC 28403	2/18/2025	2/18/2025	2/19/2025	Exhibit 10	2/21/2025	Exhibit 11
Jerome Templeton 1250 Chrismill Lane Mt. Pleasant, SC 29466	2/24/2025	2/24/2025	2/25/2025	Exhibit 12	2/25/2025	Exhibit 13
Marsh Creek at Scotts Hill Marina Attn: Jeb Bradshaw and Stephanie Bradshaw 2570 Scotts Hill Loop Road Wilmington, NC 28411	2/18/2025	2/18/2025	2/19/2025	Exhibit 14	2/21/2025	Exhibit 15
Marsh Creek Investments, LLC Attn: Stephanie Bradshaw, Registered Agent 2570 Scotts Hill Loop Road Hampstead, NC 28411	2/18/2025	2/18/2025	2/19/2025	Exhibit 16	2/21/2025	Exhibit 17
Marsh Creek Marine and Dry Storage, LLC Attn: Stephanie Bradshaw, Registered Agent 2570 Scotts Hill Loop Road Wilmington, NC 28411	2/18/2025	2/18/2025	2/19/2025	Exhibit 18	2/21/2025	Exhibit 19
B&M Holdings, LLC Attn: Thomas E. Melin, Registered Agent 137 Trombay Drive Wilmington, NC 28412	2/18/2025	2/18/2025	2/19/2025	Exhibit 20	N/A	N/A
B&M Holdings, LLC Attn: Jeb Bradshaw, Member 2570 Scotts Hill Loop Road Wilmington, NC 28411	N/A	N/A	N/A	N/A	2/21/2025	Exhibit 21

² When personally served on 2/21/25, Mr. Stewart provided this address which was not previously known to Limitation Plaintiff and was not on the NC Wildlife report through which Limitation Plaintiff learned of reported alleged damage to Mr. Stewart's property.

7. The deadline for receipt of claims and answers was March 28, 2025.
8. Following issuance of the Notice, Limitation Plaintiff, through undersigned counsel, was notified of three (3) claims, those of: (a) Kenneth Holley, Sr., (b) David E. Best and Kelli B. Best, and (c) Traci Rivenbark:
 - a. Kenneth Holley, Sr.'s unfiled claim pursued *pro se* was resolved, accordingly he has not appeared, answered, nor filed a claim.
 - b. Attorney Geoffrey A. Losee gave notice of appearance on behalf of claimants David E. Best and Kelli B. Best [DE 11]. Before the expiration of the monitions period, the Answer to Verified Complaint for Exoneration from and/or Limitation of Liability and the Claim of David E. Best and Kelli B. Best were filed [DE 9].
 - c. Attorney Andrew Hanley gave notice of appearance on behalf of claimant Traci Rivenbark [DE 14]. Before the expiration of the monitions period, the Claim of Traci Rivenbark [DE 12] and Counterclaim of Traci Rivenbark [DE 13] were filed.
9. No other person or party has appeared, filed any claims, or filed any pleadings in this matter.
10. As shown in the attached certificate of service, Limitation Plaintiff is serving, in the manner provided in Fed. R. Civ. P. 5, those persons and entities identified in paragraph 5, 6 and 8 who have failed to appear and against whom/which default is sought, as prescribed by Local Rule 55.1(a).

WHEREFORE, pursuant to Rule 55(a) and the Notice to Claimants of Complaint for Exoneration from or Limitation of Liability, Limitation Plaintiff respectfully requests an entry of defaults by the Clerk as to all non-asserted claims arising from the Voyage at issue in this limitation action, an entry of defaults against all non-appearing parties having an interest in this matter, and an order setting forth that the concursus of claimants in this action consists only of Claimants David E. Best and Kelli B. Best, and Traci Rivenbark.

This the 15th day of April, 2025.

FARRELL SMITH O'CONNELL
AARSHEIM APRANS LLP

/s/ Jason R. Harris
Jason R. Harris
N.C. State Bar No. 27876
321 North Front Street, Suite 104
Wilmington, North Carolina 28401
(910) 836-1755
(978) 666-0383 Fax
jharris@fsofirm.com

For Mail Only:
27 Congress St., Suite 508
Salem, MA 01970
Attorney Limitation Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I have served the MOTION FOR ENTRY OF DEFAULTS AGAINST NON-APPEARING PARTIES AND NON-ASSERTED CLAIMS via U.S. mail to the following non-CM/ECF participants:

Lawrence D. Rivenbark
530 Hillwood Ct.
Greensboro, NC 27410

Donald J. Stewart
2216 Scotts Hill Loop Road
Wilmington, NC 28411

Donald J. Stewart
117 Topsail Lake Rd.
Hampstead, NC 28443

Kenneth Holley, Sr.
307 Rochelle Drive
Knightsdale, NC 28403

Jerome Templeton
5316 Andover Road
Wilmington, NC 28403

Jerome Templeton
1101 Irving Manigault Road
McClellanville, SC 29458

Marsh Creek at Scotts Hill Marina
Attn: Jeb Bradshaw and Stephanie
Bradshaw
2570 Scotts Hill Loop Road
Wilmington, NC 28411

Marsh Creek Investments, LLC
Attn: Stephanie Bradshaw,
Registered Agent
2570 Scotts Hill Loop Road
Wilmington, NC 28411

Marsh Creek Marine and Dry
Storage, LLC
Attn: Stephanie Bradshaw,
Registered Agent
2570 Scotts Hill Loop Road
Wilmington, NC 28411

B&M Holdings, LLC
Attn: Jeb Bradshaw, Member
2570 Scotts Hill Loop Road
Wilmington, NC 28411

I hereby certify that on this date, I electronically filed the foregoing MOTION FOR ENTRY OF DEFAULTS AGAINST NON-APPEARING PARTIES AND NON-ASSERTED CLAIMS with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Andrew Hanley
Crossley McIntosh Collier Hanley
& Edes, PLLC
5002 Randall Parkway, Suite 200
Wilmington, NC 28403
andrewh@cmclawfirm.com
Attorney for Claimant Traci Rivenbark

Geoffrey A. Losee
Halee A. Morris
Rountree Losee LLP
2419 Market Street
Wilmington, NC 28403
glosee@rountreelosee.com
hmorris@rountreelosee.com
*Attorneys for Claimants David E. Best
and Kelli B. Best*

This the 15th day of April, 2025.

FARRELL SMITH O'CONNELL
AARSHEIM APRANS LLP

/s/ Jason R. Harris

Jason R. Harris